IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 6TH AUGUST 2007 / 15TH SRAVANA 1929

Bail Appl..No. 4708 of 2007

(CRIME NO. 25/07 OF KANJIKUZHI POLICE STATION, IDUKKI DISTRICT)
.....

PETITIONER/ACCUSED:

GINTO VARKEY,AGED 27 YEARS,
S/O.JOSEPH, KUMBHAKKATU HOUSE,
CHELACHUVADU P.O., CHURALI,KANJIKKUZHI VILLAGE,
IDUKKI DISTRICT.

BY ADV. SRI.GEORGE MATHEW.

RESPONDENT/COMPLAINANT:

STATE OF KERALA, REP.BY
SUB INSPECTOR OF POLICE,
KANJIKUZHI, IDDUKKI DISTRICT,
THROUGH PUBLIC PROSECUTOR,HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZER.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 06/08/2007,THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A.NO. 4708 OF 2007

Dated this the 6th day of August, 2007

ORDER

Application for anticipatory bail. The petitioner faces indictment in a prosecution for offences punishable, inter alia, under Secs.420 and 471 of the IPC. Investigation is now complete. Final report has already been filed. The petitioner has come to this Court apprehending that he may be arrested in the course of investigation.

2. The learned Public Prosecutor, on instructions, submits that the investigation is now complete. Final report has already been filed. It is for the petitioner now to appear before the learned Magistrate and seek regular bail. There are no circumstances justifying the invocation of the powers under Sec.438 of the Cr.P.C.

3. After the decision in **Bharat Chaudhary and**

another v. State of Bihar (AIR 2003 SC 4662), it is by now trite that powers under Sec.438 of the Cr.P.C. can be invoked in favour of a person who apprehends arrest in execution of a non-bailable warrant issued by a court in a pending proceedings. But even for that, sufficient and satisfactory reasons must be shown to exist. I am not persuaded, in the facts and circumstances of this case, that any such reasons exist.

4. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

5. In the result, this application is dismissed; but with the observation that if the petitioner surrenders before the learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate

must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself, unless compelling and exceptional reasons are there.

Sd/-

(R. BASANT, JUDGE)

Nan/

//true copy//

P.S. to Judge